

PROCEEDINGS OF THE BOARD OF HEALTH MEETING
Tuesday, January 8, 2013
5:00 PM

Present: Audrey Murphy, J. Tibbetts, MD, Harold Pfothhauer, Patricia Bacelis-Leon

Excused: Joe VanDeurzen

Absent: Don Murray

Staff Present: Judy Friederichs, John Paul

Guests Present: William Acker, 3217 Nicolet Drive, Green Bay; Steve Deslauriers, 2889 Wayside Rd., Greenleaf; Sandra Johnson, 1893 Wayside Rd., Greenleaf; Carl Johnson, 1893 Wayside Rd., Greenleaf; Luke Ashley, 309 Prospect Ave., Denmark; Susan Ashley, 309 Prospect Ave., Denmark; Bob Aschenbrenner, 5865 Zion Rd., De Pere; Jeanette Aschenbrenner, 5865 Zion Rd., De Pere; Carol Mangini, 2480 Sherridan Dr., Green Bay; Patricia Finder-Stone, 985 N. Broadway, De Pere

1. CALL TO ORDER AND INTRODUCTIONS

2. APPROVAL / MODIFICATION OF THE AGENDA

To approve the revised agenda: Tibbetts / Pfothhauer

MOTION CARRIED

3. APPROVAL OF MINUTES OF November 13, 2012

To receive and place on file: Pfothhauer / Bacelis-Leon

MOTION CARRIED

4. DISCUSSION REGARDING ODOR ORDINANCE ENFORCEMENT

Judy stated that she called Supervisor Evans today regarding clarification from Corporation Counsel regarding what qualifies as a public nuisance and

the difference between majority and minority-ruled decisions. There are a number of criteria that must be met in order for an odor to be considered a public nuisance. Supervisor Evans stated that this is still an issue with the Human Services Committee because complaints are still coming in. Judy and John are planning to attend the January meeting.

5. ODOR COMPLAINTS

John reported three complaints since the last meeting. One of those complaints was from the Belson Company and was not verified. Another came in from Green Bay Converting on December 26th when the department was closed. A third complaint came in today from a private citizen. The sanitarian responded within the hour but was not able to verify the complaint. All three complaints were regarding Sanimax.

Audrey asked if staff were not available on the day after Christmas. John said there was minimal staffing so a sanitarian was not able to respond quickly enough to verify the odor.

John said that Tony Loretz was not able to attend tonight's meeting but wanted to report that they are continuing to do internal monitoring.

6. WIND TURBINE ISSUE UPDATES

Audrey stated that, in response to a request from the citizens' group a packet of information including a cover letter and 55 affidavits was sent by certified mail on November 16th to the Public Service Commission. On November 27, 2012, the Board received a letter from Robert Norcross indicating that the letter did not make it to the PSC because it was mistakenly co-mingled with paperwork for the Highland Wind Project. He further indicated that testing did take place as requested between December 4th and 7th. The testing was done by Clean Wisconsin and four independent firms. Duke Energy did not cooperate with the study. Five acousticians participated in the study but the report was issued by four of those five experts. All four agreed with and signed the report. Audrey quoted 2 items from the report (hard copy provided to Board members) that she feels are important:

"The 4 investigating firms are of the opinion that enough evidence and hypotheses have been given herein to classify low-frequency noise and infrasound as a serious issue, possibly affecting the future of the industry. It should be addressed beyond the present practice of showing that wind turbine levels are magnitudes below the threshold of hearing at low frequencies."

"We recommend additional study on an urgent priority basis. Specifically, a comprehensive literature search far beyond the search performed here under

time constraints; secondly, a re-test at Shirley to determine the decay rate of ultra-low frequency wind turbine sound with distance, with a more portable system for measuring nearly simultaneously at the 3 homes and at other locations; and finally, a threshold of perception tests with participating and non-participating Shirley residents.”

Audrey further stated that attorney Anne Bensky filed a “corrections report” in which she states that the following section of the report was removed after the four acousticians signed it:

States," filed 10/11/12.

"purged"

2. Clean Wisconsin edited the LFN Report prior to filing; the original LFN Report included a section with one and one-half pages of recommendations for the Highland Wind Farm (HWF), the original Section 5.2. While it can be debated whether recommendations for HWF belong in the LFN Report, Forest Voice believes the original

report as signed by the five acousticians should be in the record, because it was what the acousticians actually signed. The acousticians did not re-sign the LFN Report after Clean Wisconsin deleted the original Section 5.2. Therefore, Forest Voice files, together with this Clarification, the original report of the five acousticians.

3. Section 1.0_Introduction, states, "Clean Wisconsin was retained by the Wisconsin Public Service Commission (PSC) to provide an independent review of a proposed wind farm called the Highlands Project to be located in St. Croix County, WI (WI PSC Docket 2535-CE-100)." A more accurate statement is, "The Wisconsin Public Service Commission (PSC) provided intervenor compensation to Clean Wisconsin (CW) and Forest Voice (FV) to conduct a cooperative study of low frequency noise at the Shirley Wind Farm in Glenmore, WI. The intervenor compensation was granted pursuant to CW's and FV's participation as intervenors in the Highland Wind Farm docket, 2535-CD-100." The latter statement is more accurate because the PSC did not "retain" CW, and CW did not conduct an "independent review" of HWF. CW is a party in a highly contested proceeding; it is not a neutral party.

MOTION: To depart from the regular order of business so the public can be heard:
Pfotenhauer / Tibbetts

MOTION CARRIED

William Acker: Mr. Acker stated that he has his own consulting firm called Acker and Associates. He has been working on the cooling tower and wind turbine noise and health issue for about 6 years. Duke Energy did provide information to the acousticians under the premise that they sign a confidentiality agreement. Two of the acousticians did sign the agreement so they did have information and data to help with their conclusions but could not include that information in the report. Mr. Acker feels that the sections removed from the report are the result of Clean Wisconsin going to the judge and asking that sections that do not pertain to the original purpose of the study be removed. Two of the acousticians that he talked with were angry that the sections were removed.

Steve Deslauriers: Mr. Deslauriers thanked the board for requesting the testing. Duke Energy was helpful with providing data but were not cooperative with requests to turn the generators on and off for the testing. It is very common in PSC reports that sections are redacted, but he feels that this should have been called a redacted document rather than the full version.

Audrey stated that Steve Deslauriers has provided a CD of an interview with Dr. Richard James describing the low-frequency noise and its health impact.

Sandy Johnson: That CD is very valuable because he speaks in layman's terms and speaks specifically to the problems with Shirley Wind.

MOTION: To return to the regular order of business.
Pfotenhauer / Tibbetts

Audrey stated that there has been some press involvement with this study. The group discussed several articles that appeared in the Green Bay and Madison papers in response to the study. She said that people have been saying that there have not been any peer-reviewed studies on this issue but there actually have. Audrey showed the group two publications from February and August of 2012 that were peer-reviewed.

7. LOW FREQUENCY NOISE ORDINANCE RESEARCH UPDATE

Dr. Tibbetts stated that the board has been discussing this for about six months. He talked to a Green Bay Alderperson regarding the ordinance that

they have been working on. The city attorney told him that they will not address this because it is not a nuisance but a health issue that belongs in the county Health Department. Dr. Tibbetts talked to Dr. James regarding his availability and cost of helping to write a multi-source low-frequency noise ordinance. This would include wind turbines, cooling towers, airports, natural gas turbines, dust collection devices, construction sites and other sources.

Dr. Tibbetts stated that Calumet County has had a similar ordinance in place for 5 or 6 years. Judy said that she talked to the director of the Calumet County Health Department who told her that they have not had to enforce that ordinance yet. They have not had many complaints.

Dr. James would charge \$150 per hour. He estimated a cost of \$2,500 for the two days it would take to write the ordinance. Dr. Tibbetts said that some of the surrounding counties might be interested in getting in on this project but he is concerned that it would slow down the process excessively. He recommends going through the Human Services committee to request funding for this project.

Audrey asked if there might be a grant available to fund this project. Judy said that she does not know of any program that would provide funding for something like this.

Once the ordinance is written it would need to be approved by the Human Services committee who would pass it on to the full County Board for their approval.

Judy asked if there are areas other than Calumet County that have low-frequency noise ordinances. Dr. Tibbetts said that there has been some talk about doing something on a statewide basis.

MOTION: To depart from the regular order of business to hear from the public.
Pfotenhauer / Tibbetts

MOTION CARRIED

William Acker said that new things are being learned all of the time regarding the health effects of low-frequency noise – in part from studies such as the one done at Shirley. Richard James is reviewing all of the studies that are currently being conducted.

Judy said that we have learned from other ordinances that citations based on ordinances are often thrown out when they go before a judge. If there is not enough solid evidence for a judge to look to it may be very difficult to enforce the ordinance. Dr. Tibbetts said that he feels that Dr. James will certainly tell

the board if he feels that there is not enough background to make an ordinance enforceable.

William Acker said that the acousticians are convinced that an ordinance can be written right now that would cover most of the current issues. There may be some modifications in the future.

Steve Deslauriers said that Calumet County's ordinance is exclusively for wind turbines but there are currently no turbines in Calumet County.

Patricia Finder-Stone asked if it isn't premature to ask for a budget adjustment when the board is not sure of the issues. Dr. Tibbetts said that this is the reason that they would be consulting Dr. James. Mrs. Finder-Stone asked if only one expert is being consulted. Dr. Tibbetts said that Dr. James is the expert of experts. Mrs. Finder-Stone said that she has been studying wind issues for quite some time and she feels that it is premature to put money into writing an ordinance.

MOTION: To return to the regular order of business.

Pfotenhauer / Tibbetts

MOTION CARRIED

Audrey stated that the board needs to decide whether to move forward and begin the process of contracting with Dr. James to help draft an ordinance.

MOTION: To go forward and request funding from the Human Services committee to contract with Dr. James to help draft a low-frequency noise ordinance not to exceed the amount of \$4,000.

Tibbetts / Pfotenhauer

Harold asked if this would have any impact on the rest of the Health Department's budget. Dr. Tibbetts said that this would be a specific request for a specific project.

MOTION CARRIED

8. CORRESPONDENCE RECEIVED

Judy said that any correspondence has already been discussed.

9. DIRECTOR'S REPORT

Meredith Hansen did a presentation on the CHIP assessment process that the department has been working on for the last year or so. Slides from the presentation are attached.

Judy said that staff are starting a strategic planning process that will culminate in a plan for the next three to five years. Judy Knudsen from UW Extension is facilitating the process. A meeting is scheduled for tomorrow at which we will review responses to a survey that staff members completed regarding the department's strengths and weaknesses. In March, the Board of Health will participate in the process. After that, we will meet with our stakeholders to get their input. This group will probably consist of members of the CHIP steering committee. All of this input will eventually be compiled by managers into a plan including our vision and values statements.

CD Report: Flu activity has been high in our region and across the state. Staff members continue to encourage vaccination. There will be a webcast regarding flu activity presented by the state tomorrow that staff will be participating in.

Judy and the Interim Director of the De Pere Health Department are working on comparing services provided by the two departments in an effort to decide whether De Pere is interested in merging the departments. Audrey asked how soon a decision will be made. Judy said that she does not know but that De Pere is in a situation where they will need to make a decision soon since they are short-staffed and would need to start recruiting if they decide to keep their own health department.

All staff went through performance evaluations in 2012 as part of the county-wide capstone project. Some staff will continue to meet monthly with their supervisors to work on performance goals set during these evaluations.

10. ALL OTHER BUSINESS AUTHORIZED BY LAW

Audrey said that there has been a vacancy on the board for a long time now. Judy said that the Executive has brought this up with County Board members but has not had any takers yet. Audrey asked Judy to put some pressure on the Executive to get the vacancy filled. Judy said that she would do that and will also bring it up at the next Human Services committee when she attends their next meeting.

11. ADJOURNMENT / NEXT MEETING MARCH 12, 2013

MOTION: To adjourn at 6:42 PM

Tibbetts / Bacelis-Leon

MOTION CARRIED